

Expunction and Administrative Hearings Procedure

Receipt of Request for Central Registry (CR) Expungement.

Action Items

- The person responsible for the receipt of request is the local office designee.
- All local counties will receive written requests from requestors who are requesting expungement. A photo ID needs to be provided when submitting a request, if a photo ID is not provided the local county will contact the requestor.
- Each local office will be responsible to appoint a contact to receive expungement requests and provide the outcome of the request, a backup to the primary contact must be appointed.
- The designee will be responsible for forwarding documents that are not located within the electronic case management record and the pre-electronic case management record materials. The designee is also responsible for assisting with the delivery of subpoenas and sending required mailings.
- Upon receipt of a request within the local office, the local office will complete a CR clearance.
 - If the requestor is on CR the expungement request received by the local office will be date stamped, scanned, and emailed to the expungement request mailbox within two business days.
 - If the requestor is not on CR the local office will contact the requestor to discuss.
- The local office will scan, and email requested documents to the expungement analyst within five business days.

Request for CR Expungement

Action Items

- The person responsible for the request is the expungement supervisor.
- Expungement requests received within the expungement request mailbox will be assigned by the next working business day.

Documentation of Request

Action Items

- The person responsible for documentation of requests is the expungement analyst.
- A request for an expungement review is to be completed by the expungement analyst.
- The expungement analyst must review the electronic case management record within two business days of assignment to determine if documents need to be requested from the local office and complete the request for records at this time.
- Assignment of the expunction reviews will be based on geographic region of the hearing location, if possible.

- All requests are to be logged into the expungement spreadsheet located within the analysts shared drive.

Case Review

Action Items

- The person responsible for case review is the expungement analyst.
- See PSM 717-3, Amendment or Expunction.
- The reviewing expungement analyst is to assess if the case has sufficient evidence to support the dispositional findings.
- The finding must be supported and applied correctly by the child protection law (CPL), policy, and procedures.
- All factors must be considered including the credibility of witness statements.
- All supporting evidence provided by the requestor must be reviewed prior to making a determination.
- Contact must be made with those individuals necessary to discuss and verify pertinent information in rendering a decision.
 - Contact must be made with witnesses, assigned child protection services (CPS) specialists, supervisors, and/or requestors.

Expungement Decision and Second Line Review

Action Items

- The persons responsible for the decision and review are the expungement analyst and supervisor.
- The reviewing expungement analyst is to have a case consultation with the expungement supervisor to discuss their decision based on the completed review.
- The expungement analyst will contact the local county office director or designee to discuss the decision of expungement.
- The expungement analyst will update the spreadsheet with the decision and outcome information.

Consultation

Action Items

- The person responsible for the consultation is the business service center (BSC) director.
- If there is not a consensus, the request will be brought to the BSC director's attention for further review.

Decision Notification

Action Items

- The persons responsible for the decision notification are the expungement analyst and the local office.
- If the decision is to expunge the record(s) the intake/CR hyperlinks must be completed, and all proper documentation uploaded including:
 - DHS-847a, *Notice of Placement on Central Registry*, signed by the petitioner.

- DHS-847c, *Notice of a Confirmed Case*, signed by the petitioner.
 - Initial Service Plan.
 - Supporting documentation.
 - DHHS-1200, *Child Abuse/Neglect - Central Registry Expunction Action*.
 - DHS-1200c, *Confirmed Case Amendment Action*, for confirmed cases that do not result in central registry placement.
- The completed DHS-1200 will be emailed to the local office point of contact.
 - The local office point of contact will mail the requestor the DHS-1200.
 - For confirmed cases regarding individuals not placed on central registry, the DHS-1200c, *Confirmed Case Amendment Action*, will be mailed to the requestor by the expungement unit.
 - If the decision is to deny the request the expungement analyst is to complete all paperwork required to request a hearing. See hearing process below.

Programming Support and Enhancement

Action Items

- The person responsible for the programming support and enhancement is the expungement supervisor.
- The expungement supervisor will notify the sending local office director/designee if the case was found to have best practices or areas of concern.

Hearing Process

Action Items

- The persons responsible for the hearing process are the expungement analyst and the local office.
- See PSM 717-3, Administrative Hearing Procedures.
- The expungement analyst is responsible for completing the hearing process.
- Complete the notification packet and send to the Michigan Office of Administrative Hearing and Rules (MOAHR). The packet must include the following:
 - DHS-3050, Hearing Summary.
 - Coversheet identifying the case, county in which the client resides, assigned expungement analyst name, and contact information.
 - The DHS-3050, Hearing Summary, and hearing packet will be sent to MOAHR via email at, MOAHR-BSD@michigan.gov.
- The expungement analyst will email the hearing packet to [Bureau of Legal Affairs CSA Legal Division \(CSARequestforLegalResearch@michigan.gov\)](mailto:Bureau of Legal Affairs CSA Legal Division (CSARequestforLegalResearch@michigan.gov)).
- The petitioner has the right to review investigation reports and obtain copies of the needed documents and materials. The expungement analyst must redact the documents for any confidential information. A hearing packet will be emailed to the local county point of contact.
- The point of contact will send the packet to the petitioner via certified return receipt, restricted is required. The verification of receipt will then be scanned and emailed to the expungement analyst.

- The expungement analyst will also upload the hearing packet in the electronic case management record within the amendment/expungement document hyperlink.
- The expungement analyst will update the expungement spreadsheet.

Attorney General Request

Action Items

- The person responsible for the attorney general request is the expungement analyst.
- If a requestor has identified, they are being represented by legal counsel the expungement analyst will immediately be responsible for requesting representation by the attorney general. The expungement analyst will need to complete the 1216E and forward it [Bureau of Legal Affairs CSA Legal Division \(CSARequestforRepresentation@michigan.gov\)](mailto:CSARequestforRepresentation@michigan.gov).
- The expungement analyst will remain the point of contact for the department when assisting the assistant attorney general in coordinating conference calls, obtaining documentation, and case recommendations.

Pre-Hearing Conference

Action items

- The person responsible for the pre-hearing conference is the expungement analyst.
- The assigned expungement analyst is required to schedule a pre-hearing conference with the petitioner if one is not completed during the expungement process.
- The expungement analyst will need to gather information from the petitioner if they have or will be obtaining representation in this matter.
- The pre-hearing conference must occur within 30 days upon receipt of the request unless the petitioner chooses not to participate in the conference.
- The expungement analyst must participate in a pre-hearing conference with the administrative law judge, if required.

Preparation for Hearing

Action Items

- The persons responsible for the preparation of the hearing are the expungement analyst, expungement supervisor, and the local office.
- The expungement analyst is responsible for the following:
 - Drafting the questions for the testimony of witnesses.
 - Completing the MDHHS-5602, Payment Voucher, for witness fees.
 - Witness fees remain the responsibility of the local county.
 - Preparing witnesses for the hearing.
- If necessary, request and ensure delivery of subpoenas for witnesses to testify in coordination of the local office.
- Determine necessary exhibits.
- Case consultation between the expungement analyst and supervisor will occur to discuss any conflicts.

Notification of Hearing Date

Action Items

- The person responsible for the notification of the hearing date is the expungement analyst.
- When a hearing date is identified information will be updated within the administrative hearings calendar as well as notification to the local county designee and witnesses.
- If the expungement analyst is unable to attend a hearing immediate (within 24 hours or the next business day) notification is to be made to the expungement supervisor.

Settlement of Expunction

Action Items

- The persons responsible for the settlement of expunction are expungement analyst and the expungement supervisor.
- If at any time during the process the expungement analyst believes there is insufficient evidence/witnesses to keep the petitioner on CR, consultation must be held with the expungement supervisor.
- If a settlement is determined after a hearing request has been made the petitioner must complete a waiver for the hearing form. The expungement analyst is to ensure a copy of the form is filled and all actions are completed.

Request for Adjournment

Action Items

- The person responsible for the request for adjournment is the expungement analyst.
- If an adjournment of a scheduled hearing is needed the expungement analyst must send a request in writing to the MOAHR and a copy to the petitioner.
 - If the adjournment is denied the hearing will commence at its scheduled date/time.

Hearing Decision

Action Items

- The persons responsible for the hearing decision are the expungement analyst and the expungement supervisor.
- The expungement analyst must electronically send the proposal for decision to the expungement supervisor immediately upon receipt.
- The expungement analyst must review the findings of fact and conclusion within two business days of receipt of the proposal for decision.
- If MDHHS agrees within the decision the expungement analyst will implement the findings as outlined.
- If MDHHS is required to remove the petitioner from the CR it is to be completed by the expungement analyst within ten calendar days of receipt of the hearing decision.
- If edits are required to the service plan this must be amended by the expungement analyst within ten calendar days of receipt of the hearing decision.

- The expungement analyst must complete the DHS-1844, Administrative Hearing Order Certification-Services Programs, within ten calendar days and send it to the Bureau of Legal Affairs to certify the implementation of the required action(s).
 - [Bureau of Legal Affairs CSA Legal Division \(CSARequestforRepresentation@michigan.gov\)](mailto:CSARequestforRepresentation@michigan.gov).
- A copy of the administrative hearing proposal for decision is to be filed in the case file and uploaded within the case amendment/expungement hyperlink located in the electronic case management record.

Rehearing/Reconsideration

Action Items

- The person responsible for the rehearing/reconsideration is the expungement analyst.
- See PSM 717-3, Administrative Hearing Procedures.
- If MDHHS is not in agreement with the decision the expungement analyst and the expungement supervisor will consult with the Office of Legal Affairs and/or the attorney general.
- The expungement analyst will then email the CPS program office to receive approval and agreement for reconsideration.
- The expungement analyst will process and complete a reconsideration within ten calendar days.
- The expungement analyst will complete a written formal request for a rehearing/reconsideration.